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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 United States of America,  
10 Plaintiff,  
11 v.  
12 Jovante Lamar Fryson, II,  
13 Defendant.  
14

No. CR-18-01495-003-TUC-JAS (EJM)  
**ORDER**

15 Pending before the Court is a Report and Recommendation issued by United States  
16 Magistrate Judge Eric J. Markovich that recommends Defendant's motion to suppress  
17 (Doc. 45) be denied as MOOT due to the Government's representation at the evidentiary  
18 hearing that it will not introduce evidence regarding the show-up identification. A review  
19 of the record reflects that the parties have not filed any objections to the Report and  
20 Recommendation and the time to file objections has expired. As such, the Court will not  
21 consider any objections or new evidence.

22 The Court has reviewed the record and concludes that Magistrate Judge  
23 Markovich's recommendations are not clearly erroneous. *See* 28 U.S.C. § 636(b)(1); Fed.  
24 R. Crim. P. 59(b); *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999);  
25 *Conley v. Crabtree*, 14 F. Supp. 2d 1203, 1204 (D. Or. 1998).

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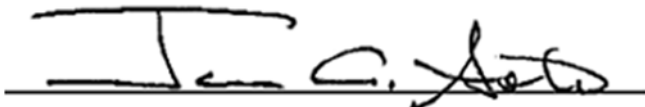
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Accordingly, IT IS HEREBY ORDERED as follows:

- (1) Magistrate Judge Markovich's Report and Recommendation (Doc. 59) is accepted and adopted.
- (2) Defendant's motion to suppress (Doc. 45) is dismissed without prejudice as moot.

Dated this 10th day of December, 2018.

  
Honorable James A. Soto  
United States District Judge